

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850

[www.montgomerycountymd.gov/content/council/boa/index.asp](http://www.montgomerycountymd.gov/content/council/boa/index.asp)

(240) 777-6600

**Case No. S-2759**

**PETITION OF DARNESTOWN DEVELOPMENT, LLC  
T/A GODDARD SCHOOL**

OPINION OF THE BOARD

(Opinion Adopted November 17, 2010)

(Effective Date of Opinion: November 22, 2010)

Case No. S-2759, Petition of Darnestown Development, LLC, t/a/ Goddard School, is an application for a special exception under Section 59-G-2.13.1 of the Zoning Ordinance to permit the construction and operation of a Child Day Care Center.

The Hearing Examiner for Montgomery County held a public hearing on the application on June 21, 2010, closed the record in the case on August 5, 2010 and on November 2, 2010, issued a Report and Recommendation for approval of the special exception.

Decision of the Board:                      Special Exception **Granted** Subject  
To the Conditions Enumerated Below.

The subject property is Lots 9 and 10, Block A, Musgrove's Addition Subdivision, located at 22010, 22014 Frederick Road, Clarksburg, Maryland in the R-200 Zone.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on November 17, 2010. After careful consideration and review of the record in the case the Board adopts the Report and Recommendation and grants the special exception subject to the following conditions:

1. The Petitioner shall be bound by all of its testimony and exhibits of record, and by the testimony of its witnesses and representations of counsel identified in this report.

2. Petitioner is granted a waiver to allow the number of parking spaces on site to be reduced from the 89 parking spaces which would ordinarily be required to 60 parking spaces.
3. Since the proposed use will require subdivision, in accordance with Zoning Ordinance §59-G-1.21(a)(9), approval of this special exception is conditioned upon approval of a preliminary plan of subdivision by the Planning Board. If changes to the site plan or other plans filed in this case are required at subdivision, Petitioner must request modification of these special exceptions from the Board of Appeals.
4. Petitioner must comply with the terms of its revised Site Plan (Exhibit 53(a) and 34(c)); its Landscape Plans (Exhibits 53(b) and 34 (f)); and its Lighting and Photometric Plan (Exhibit 34(k)).
5. The operation of the child daycare facility is limited to the following:
  - (a) 163 day-care children and 120 school-aged children in the after-school or the summer camp program, for a maximum of 283 children on-site at any one time;
  - (b) 41 staff members on-site at any one time;
  - (c) Hours of operation to be Monday through Friday, 7 A.M. until 6:30 P.M.; and
  - (d) Other activities permitted in its Statement of Operations (Exhibit 34(b)).
6. Petitioner must comply with the terms of its Statement of Operations (Exhibit 34(b)).
7. Petitioner must comply with its Transportation Management Plan (Exhibit 36(a)). If changes in the TMP are made at subdivision, Petitioner must request a modification of this special exception from the Board of Appeals to so reflect.
8. No sign may be posted unless and until Petitioner obtains a permit therefor and a sign variance, if required, and copies of these documents are filed with the Board of Appeals.
9. Petitioner must comply with the conditions of the revised Preliminary Forest Conservation Plan, Exhibit 48, until approval of the Final Forest Conservation Plan by the Planning Board, after which time Petitioner must comply with the terms of the Final Forest Conservation Plan.
10. Petitioner must comply with the conditions of the Preliminary Water Quality Plan, Exhibit 7(c), until approval of the Final Water Quality Plan by the

Planning Board, after which time Petitioner must comply with the terms of the Final Water Quality Plan.

11. Petitioner must comply with the stormwater management plan ultimately approved by DPS and adopted at subdivision, and must obtain and comply with sediment and erosion control permits.
12. Petitioner must comply with all Maryland State and Montgomery County licensure requirements and standards for the operation of a child day care facility.
13. In accordance with Code § 59-G-2.13.1(a)(4), the Petitioner is bound by the Affidavit of Compliance submitted in connection with this case, Exhibit 11, in which Petitioner certified that it will comply with and satisfy all applicable State and County requirements, correct any deficiencies found in any government inspection, and be bound by the affidavits as a condition of approval for the special exception.
14. In no event may a child be dropped off before a staff member is present to supervise that child; nor may a child be left alone if a parent is late in making a pick-up.
15. All children must be under the direct supervision of a staff member at all times, both inside and outside the building.
16. The Petitioner shall not use a public address system of any kind outside the building, nor shall any amplified music be played outside the building, with the exception that Petitioner may use electronic voice amplification for its outdoor puppet show.
17. The Petitioner shall maintain the grounds in a clean condition, free from debris, on a daily basis.
18. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioner shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

On a motion by Stanley B. Boyd, seconded by Walter S. Booth, with Carolyn J. Shawaker, and Catherine G. Titus, Chair, in agreement and David K. Perdue, Vice-Chair necessarily absent the Board adopted the following Resolution:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

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Catherine G. Titus  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 22<sup>nd</sup> day of November, 2010.

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Katherine Freeman  
Executive Director

**NOTE:**

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four months' period within which the special exception granted by the Board must be exercised.

